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UNITED NATIONS CONFERENCE ON
STRADDLING FISH STOCKS AND
HIGHLY MIGRATORY FISH STOCKS
New York, 12-30 July 1993

SUGGESTED GUIDELINES

(Submitted by the delegation of the European Economic Community)

I. CONSERVATION AND MANAGEMENT

1. According to the relevant provisions of the United Nations Convention on the Law of the Sea, States 1/ are collectively under an obligation to conserve and manage straddling stocks and highly migratory species and should therefore commit themselves to:

(a) Responsible fishing in order not to jeopardize the integrity of marine ecosystems;

(b) Rational and sustainable utilization of these resources with a view to ensuring better integration of environmental and development objectives as well as the long-term needs of present and future generations.

2. In fulfilling their obligation to conserve and manage those stocks, States shall take conservation measures which may comprise total allowable catches (TACs) and/or, as appropriate, other instruments which limit fishing efforts, and which:

(a) Are designed to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, taking into account fishing patterns, the interdependence of stocks and any recommended international minimum standards;

(b) Take into consideration the effects on species associated with or dependent upon harvested species, with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

States concerned shall ensure that conservation measures and the implementation thereof do not discriminate in form or in fact against the fishermen of any State.

3. In this regard, the States concerned shall ensure that conservation and management measures:

(a) Are concerned with the whole stock as a biological unit in its entire area of distribution, taking into account all relevant factors, including, in particular, the impact of any such measure on areas of national jurisdiction of the coastal States concerned;

(b) Are designed with due regard to the rights of other States, whether they are coastal States or other States fishing for stocks beyond the areas of national jurisdiction of the coastal States.

There should be consistency between the measures applicable within the areas of national jurisdiction and those applicable beyond, while respecting the rights of all States having an interest in such fish stocks.

4. Depending on the specific characteristics of fisheries and fishing areas, conservation and management measures may comprise and result in a combination of:

(a) Regulation of access through authorizations, licences, etc.;

(b) Regulation of fishing instruments;

(c) Regulation of fishing activity, including fishing effort limitation;

(d) Technical conservation measures.

5. Management measures shall be based on the best scientific advice available, taking into account the levels of acceptable uncertainty when taking such measures. To this end, it is necessary for the States concerned:

(a) To promote scientific research with respect to all relevant factors, including those factors other than fishing activities, such as the effects of natural and man-made environmental changes;

(b) To carry out impartial and transparent research actions, the results of which should be made available to all interested States and/or international fisheries organizations;

(c) To focus on resource assessment and management models based on multi-species approaches, as well as the selectivity of fishing gear and the use of environmentally safe fishing techniques, in order to minimize waste, discards and the catching of untargeted species, in particular endangered species, taking into account the need to protect biodiversity;

(d) To harmonize statistical grids and data collection and treatment procedures, with a view to improving the collection and the timely dissemination of accurate and complete statistical data relating to catches, including

by-catches, fishing efforts and any other relevant information deemed necessary to ensure that the best scientific evidence is in fact available (in this context, some of the information required for stock-assessment purposes might be confidential).

6. In the absence of sufficient scientific evidence, fisheries should be managed in a cautious manner, taking into account the specific particulars of the fisheries concerned. Precautionary management does not necessarily require moratoria or any other unnecessarily restrictive measures. Fishing activities to which precautionary management is applied should be subject to enhanced monitoring in order to keep the precautionary measures under continuous review. Such measures should be revised or repealed once new scientific information indicates that normal management may be resumed.

II. INTERNATIONAL COOPERATION

7. All States concerned shall cooperate with each other in the conservation and management of straddling stocks and highly migratory species. To this end, States shall negotiate in good faith with a view to agreeing, at the appropriate bilateral or multilateral level, on the necessary conservation measures for such stocks in the relevant maritime areas.

8. States shall, as appropriate, cooperate to establish subregional or regional organizations for the conservation of such stocks. In the absence of such organizations, States shall cooperate with each other in the conservation and management of the stocks concerned.

9. Pending or failing any agreement on the necessary conservation measures, States concerned shall have due regard to the rights and obligations of other States.

10. International fisheries organizations shall be open, on a non-discriminatory basis, to all States interested in the exploitation of the stocks concerned. Only those States which cooperate in the decision-making of regional or subregional fisheries organizations, or which are willing to bear responsibility for those decisions directed towards conservation and management of the stocks concerned, should have access to regulated fish stocks in the specific area. States which are not members of an existing competent regional or subregional fisheries organization shall be invited to join and should join that organization. States which do not join an existing fisheries organization, or do not cooperate in establishing such an organization, are not thereby discharged from the obligation to cooperate in the conservation and management of such stocks.

11. International cooperation shall provide the institutional mechanisms necessary for the adoption of effective conservation and management measures, fully consistent with the United Nations Convention on the Law of the Sea. Such mechanisms may also comprise, as appropriate, collection and dissemination of statistics, research, monitoring, surveillance, control and specifically adapted dispute settlement procedures. International fisheries organizations, when taking conservation and management measures, shall follow the best scientific

advice available. Where such advice is not available, they should set up scientific committees.

12. States having the duty to cooperate should, within the structure of competent fisheries organizations, achieve consistency between conservation and management measures applicable within the areas of national jurisdiction and those applicable beyond those areas, taking into account the different legal regimes while respecting the rights of all parties concerned.

13. Decisions or recommendations adopted by international fisheries organizations shall be effectively implemented and enforced by States members of those organizations.

14. States that are not members of international fisheries organizations shall ensure that fishing vessels entitled to fly their flag do not engage in any activity that undermines the effectiveness of internationally agreed and applicable conservation and management measures.

15. States which are members of an existing competent regional or subregional fisheries organization should undertake appropriate efforts, consistent with international law, to ensure that no vessels engage in any activity contrary to the objectives of that organization.

16. Adequate assistance, including scientific and technological cooperation, should be provided to developing countries to enable them to fulfil their obligations relating to the conservation and management of the stocks concerned.

Notes

1/ For the purpose of this document, the term "State" should be interpreted as including the European Economic Community in matters within its competence.